

INTRODUCTION

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2 1. This is an action for damages brought by an individual consumer for
3 Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. §
4 1692, *et seq.* ("FDCPA"), the Rosenthal Fair Debt Collection Practices Act, Cal.
5 Civ. Code §1788, *et seq.* ("RFDCPA").
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JURISDICTION AND VENUE

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8 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), which
9 states that such actions may be brought and heard before "any appropriate United
10 States district court without regard to the amount in controversy," and 28 U.S.C. §
11 1331, which grants this court original jurisdiction of all civil actions arising under
12 the laws of the United States.
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14 3. Defendant regularly conducts business in the State of California,
15 therefore personal jurisdiction is established.
16

17 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).
18

PARTIES

19 5. Plaintiff is a natural person residing in Dana Point, California 92629.
20

21 6. Plaintiff is a "consumer" as that term is defined by 15 U.S.C.
22 §1692a(3) and is a "debtor" as defined by Cal. Civ. Code §1788.2(h).
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24 7. Defendant is a corporation with its principal place of business
25 located at 10550 Deerwood Park Blvd, St. 309, Jacksonville, Florida 32256.

1 8. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §
2 1692a(6), and RFDCPA, Cal. Civ. Code §1788.2(c), and contacted Plaintiff in an
3 attempt to collect a debt.

4 9. Debt collection is the principal purpose of Defendant’s business.

5 10. Defendant acted through its agents, employees, officers, members,
6 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
7 representatives, and insurers.
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9 **FACTUAL ALLEGATIONS**
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11 11. Beginning in or around June 2017 and continuing through August
12 2017, Defendant’s collectors placed repeated collection calls to Plaintiff’s cellular
13 telephone number in its attempts to collect an alleged T-Mobile debt that was
14 incurred primarily for personal, family, or household purposes.
15

16 12. During the relevant time period, Defendant called Plaintiff, often
17 multiple times per day, seeking and demanding payment toward the alleged debt.

18 13. Defendant contacted Plaintiff from phone numbers including, but not
19 limited to the following: (949) 447-2980. The undersigned has confirmed that this
20 telephone number belongs to Defendant.
21

22 14. Attempting to stop these repeated, harassing calls, Plaintiff spoke to
23 Defendant in or around early July 2017, informed Defendant that she did not owe
24
25

1 the alleged debt, refused to pay the debt and demanded that Defendant stop calling
2 her.

3 15. Rather than stopping calls as requested by Plaintiff, Defendant
4 continued to call her excessively each day.
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6 16. Once Defendant was told the calls were unwanted and to stop, there
7 was no lawful purpose to making further calls, nor was there any good faith
8 reason to place calls.
9

10 17. Further, any continued calls could only have been placed to Plaintiff
11 for the purpose of harassing her.

12 18. Defendant also called Plaintiff's sister on at least one occasion to
13 determine her whereabouts.
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15 19. Defendant's repetitive calls were aggravating, stressful and
16 overwhelming for Plaintiff, and she proceeded to download an application to her
17 cellular telephone in order to block Defendant's calls.
18

19 **COUNT I**
20 **DEFENDANT VIOLATED §§ 1692d and d(5) OF THE FDCPA**

21 20. A debt collector violates § 1692d of the FDCPA by engaging in
22 conduct of the natural consequence of which is to harass, oppress, or abuse any
23 person in connection with the collection of a debt
24
25

21. A debt collector violates § 1692d(5) by causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

22. Defendant violated §§1692d and d(5) when it called Plaintiff repeatedly each day and continued to call Plaintiff despite her multiple demands to stop calling her cell phone.

COUNT II
DEFENDANT VIOLATED THE
ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT

23. Section 1788.17 of the California Civil Code mandates that every debt collector attempting to collect a consumer debt shall comply with § 1692b through § 1692j of the FDCPA.

24. Defendant violated Cal. Civ. Code § 1788.17, when it violated the FDCPA for the reasons set forth in this Complaint.

WHEREFORE, Plaintiff, DARLENE COVILL, respectfully prays for judgment as follows:

- a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
- b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);

- 1 c. All reasonable attorneys' fees, witness fees, court costs and other
2 litigation costs incurred by Plaintiff pursuant to 15 U.S.C. §
3 1693k(a)(3);
4
5 d. All actual damages, statutory damages, reasonable attorney's fees
6 and costs, and any other litigation costs incurred by Plaintiff pursuant
7 to the RFDCPA at Cal. Civ. Code § 1788.17; and
8
9 e. Any other relief deemed appropriate by this Honorable Court.

10 **DEMAND FOR JURY TRIAL**

11 PLEASE TAKE NOTICE that Plaintiff, DARLENE COVILL, demands a
12 jury trial in this case.
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14
15 RESPECTFULLY SUBMITTED,
16 KIMMEL & SILVERMAN, P.C.
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18 Date: June 13, 2018

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